

## SEPARATION AGREEMENT AND RELEASE

THIS SEPARATION AGREEMENT AND RELEASE ("Agreement") is made between Michael E. Hamilton ("Mr. Hamilton") and THE UNIVERSITY OF TENNESSEE, a public educational corporation of the State of Tennessee, for and on behalf of The University of Tennessee, Knoxville and its Men's Athletics Department ("University").

WHEREAS, the University and Mr. Hamilton are parties to an Agreement, dated July 10, 2009 ("Employment Agreement"), pursuant to which Mr. Hamilton has been employed as the University's Director of Men's Athletics; and

WHEREAS, the Employment Agreement includes certain provisions concerning rights and responsibilities of the parties with respect to termination of the employment relationship;

WHEREAS, recognizing Mr. Hamilton's contributions to the Men's Athletics Department and programs at the University, the parties have reached agreement on certain terms and conditions for terminating the employment relationship rather than the terms and conditions in the Employment Agreement;

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and benefits of this Agreement, the parties agree as follows:

### Termination of Employment

1. Mr. Hamilton hereby resigns his employment with the University effective at the end of the business day on June 30, 2011 ("Effective Date"). The University hereby accepts his resignation. On the Effective Date, the Employment Agreement between the University and Mr. Hamilton shall terminate for all purposes and shall be of no further force or effect, and neither the University nor Mr. Hamilton shall have further rights or obligations under the Employment Agreement.

2. Mr. Hamilton shall cease active service as the University's Director of Men's Athletics and relinquish all duties and responsibilities as Director of Men's Athletics effective June 13, 2011. Beginning June 13, 2011, Mr. Hamilton shall be on paid administrative leave until he begins other full-time employment or through June 30, 2011, whichever occurs first, subject to the terms of the Employment Agreement and subject to the condition that he not engage in gross misconduct as described in University of Tennessee Human resources Policy 0525. While on paid administrative leave, Mr. Hamilton shall comply with any reasonable request by the Chancellor or the Interim Director of Men's Athletics for information about matters Mr. Hamilton handled as Director of Men's Athletics and otherwise cooperate fully in the transition of leadership.

### Separation Payment

3. In consideration of the promises in this Agreement, the University agrees to pay Mr. Hamilton the total sum of One Million Three Hundred Thirty-Five Thousand Dollars (\$1,335,000) (the "Separation Payment") in thirty-six (36) equal monthly installments, with the first installment to be paid on or before July 31, 2011, and the remaining installments to be paid on or before the last day of each subsequent month through June 2014. The Separation Payment

represents the Base Salary under Article II of Employment Agreement for the remaining term of the Employment Agreement (\$400,000 annually for three (3) years) and one-half of the Supplemental Compensation under Article III of the Employment Agreement for the remaining term the Employment Agreement (\$45,000 annually for three (3) years). In the event of Mr. Hamilton's death, the University's obligation to make any and all payments under this Section 3 shall cease.

4. The University will not make any retirement contribution on the Separation Payment. Mr. Hamilton acknowledges that voluntary tax-deferred retirement contributions (for example, 401(k) contributions) are not permitted on the Separation Payment.

#### Other Payments

5. Mr. Hamilton's final payroll check from the University shall include payment for any accrued and unused annual leave he may have at that time, up to the maximum of three hundred thirty-six (336) hours at the rate of his current monthly base pay of Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33), unless he is terminated for gross misconduct. In the event of Mr. Hamilton's death prior to his final payroll check from the University, the value of his accrued and unused annual leave, up to the maximum of three hundred thirty-six (336) hours, shall be paid to his designated beneficiary for the death benefit under University Human Resources Policy 0307 or, in the absence of a designated beneficiary for this payment, as otherwise provided by HR Policy 0307.

6. The University shall pay the premium required for continuation of Mr. Hamilton's medical insurance coverage under COBRA through June 30, 2012, or until Mr. Hamilton has replacement medical coverage in place, whichever occurs first. Mr. Hamilton shall notify the University within five (5) business days of obtaining replacement medical coverage and agrees that if he fails to do so, he will reimburse the University for any COBRA premium paid by the University after he obtained replacement medical coverage.

7. On or about June 30, 2011, the University shall pay Mr. Hamilton all Sports Team Performance Bonuses and Academic Performance Bonuses earned for the contract year ending June 30, 2011 (for which payment has not already been made) under Article IV, Schedules A and B of the Employment Agreement. The parties agree that Mr. Hamilton will not receive a Discretionary Bonus under Article IV, Schedule C of the Employment Agreement.

8. The University agrees to pay for, if applicable, or reimburse Mr. Hamilton for his registration, lodging, and meal expenses incurred while attending a July 2011 conference of certain Division I Athletics Directors at which he has previously committed to make a presentation. Reimbursement for these expenses shall be in accordance with the University's travel policies and procedures.

#### Term Life Insurance

9. If allowed by the insurance carrier, the University shall take reasonable and necessary steps to convert the term life insurance policy Mr. Hamilton is currently being provided under Schedule D of the Employment Agreement into an individual term life insurance policy and to transfer ownership of the policy to Mr. Hamilton, with Mr. Hamilton thereafter having the right to designate the beneficiaries of the policy. The University shall not be

obligated to pay any amounts required for the conversion or transfer of ownership. Mr. Hamilton shall be responsible for all costs associated with the conversion and transfer of ownership and for payment of all premiums thereafter.

#### Football and Men's Basketball Tickets

10. In recognition of his nineteen years of service to the Men's Athletics Department, Mr. Hamilton shall be entitled to lifetime use of eight (8) complimentary season football tickets and eight (8) complimentary season men's basketball tickets and two (2) complimentary parking permits each for football and men's basketball.

#### Release of All Claims

11. In exchange for the Separation Payment, Mr. Hamilton hereby irrevocably and unconditionally releases the University, its current and former Trustees, Presidents, Chancellors, officers, employees, agents, representatives, successors, assigns, and related entities (the "Released Parties") from any and all causes of action, suits, claims, liabilities, damages, demands, costs, attorneys' fees, agreements, promises, rights, obligations, equities, actions, under all legal theories of whatever kind, in law or in equity, in contract or tort or public policy, both known and unknown, suspected and unsuspected, disclosed and undisclosed, actual or consequential, specific and general, however denominated against the University and the Released Parties, except that he does not release any claim relating to: (i) the right to enforce this Agreement; (ii) the right, if any, to claim government-provided unemployment benefits, or (iii) any rights or claims which may arise or accrue after he signs this Agreement.

12. Mr. Hamilton acknowledges that he is entering into this Agreement voluntarily. He understands and acknowledges that he is releasing claims of which he may not be aware, that this is his knowing and voluntary intent, even though he may claim in the future to regret having signed this Agreement. Mr. Hamilton expressly waives all rights under any law that is intended to protect him from waiving unknown claims and is aware of the significance of doing so. Mr. Hamilton acknowledges he has had the benefit of consultation with his attorney before executing this Agreement, and that his attorney was involved in drafting this Agreement. Mr. Hamilton has not assigned or transferred any claim covered by this Agreement, and he has not attempted or purported to do so.

13. Mr. Hamilton asserts and acknowledges that he has not filed or caused to be filed any lawsuit, complaint, claim, demand or charge against the University. Mr. Hamilton further agrees never to file or prosecute a lawsuit, complaint, claim or demand against the University, whether in state or federal court, in the Tennessee Claims Commission or elsewhere, based upon any acts or omissions prior to the execution of this Agreement and agrees never to seek any damages, injunctive, or other relief against the University or any of its agents with respect to acts or omissions prior to his execution of this Agreement. If, despite this Agreement, Mr. Hamilton files a lawsuit, claim, complaint, or demand, whether in state or federal court, in the Tennessee Claims Commission or elsewhere, attempting to challenge the terms of this Agreement, attempting to obtain an order declaring this Agreement null and void, or instituting litigation against the University or any of the Released Parties based upon a claim that is covered by the terms of the release contained in Section 11, he shall as a condition precedent to such action repay to the University the entire Separation Payment.

### Miscellaneous

14. Mr. Hamilton and the University agree that his resignation pursuant to the terms of the Agreement will be announced by him and appropriate University officials at a called media event on June 7, 2011. Mr. Hamilton and the University agree to use their best efforts to not release the fact of his resignation or the terms of this Agreement until such announcement, but Mr. Hamilton acknowledges that this Agreement is subject to the provisions of the Tennessee Public Records Act, and the University may be required to release the Agreement before the called media event.

15. By the end of the business day on June 30, 2011 or such earlier date as he begins other full-time employment, Mr. Hamilton shall return all University property in his possession, including but not limited to University identification, keys, cellular telephones, personal digital assistants (PDAs), computers, credit cards, and calling cards. The University agrees to take such reasonable action as may be necessary to authorize the vendor to transfer ownership of the cellular telephone and/or cellular telephone number to Mr. Hamilton. As a condition to receiving his final payroll check from the University, on or before he leaves the University's payroll (June 30, 2011 or such earlier date as he begins other full-time employment), Mr. Hamilton shall complete other requirements of the University's standard exit procedures, including satisfaction of any debts to the University.

16. On or before the date he begins other full-time employment or June 30, 2011, whichever occurs first, Mr. Hamilton shall return to the dealer(s) the vehicles in his possession pursuant to the courtesy vehicle program.

17. Mr. Hamilton represents and warrants that he has disclosed to the University any and all violations of any NCAA or SEC constitution, bylaw, rule, or regulation ("Rule") by himself or by others of which he has knowledge; and that he has no knowledge of or reasonable cause to believe there exists any other violation or potential violation of any Rule by himself or any other employee of the Men's Athletics Department prior to the date on which he executed this Agreement other than the alleged violations described in the Notice of Allegations the University received from the NCAA on February 23, 2011. Mr. Hamilton agrees that a breach of the representation and warranty contained in this Section 17 shall be a material breach of this Agreement that is not capable of being cured, and the University in its sole discretion may elect to terminate this Agreement upon written notice to Mr. Hamilton.

18. (a) Mr. Hamilton agrees that he will not make or issue public statements or take any action that disparages the University or any of the Released Parties. Nothing contained in this Agreement shall be construed to limit or influence Mr. Hamilton's testimony in connection with any NCAA or legal proceeding.

(b) Mr. Hamilton shall not: interfere in any way with the activities of the University's Men's (or Women's) Athletics Departments; discourage any coach, staff member or student athlete member of the Men's (or Women's) Athletics Departments or any team associated therewith from cooperating in the transition to a new Men's Athletics Director or remaining an active coach, staff member and/or student athlete member of the department or any team; or discourage any prospective student-athlete from enrolling in the University.

(c) Mr. Hamilton shall cooperate fully with the University and the NCAA enforcement staff, Committee on Infractions, and Infractions Appeals Committee with respect to the current investigation or any other investigation of violation(s) of NCAA rules that allegedly occurred during Mr. Hamilton's employment with the University. Nothing contained in this Agreement shall be construed to limit or influence Mr. Hamilton's testimony in connection with any NCAA or legal proceeding.

19. Mr. Hamilton agrees that any violation of Section 18(a), 18(b), or 18(c) shall be a breach of this Agreement, and the University shall be entitled to liquidated damages in the sum of Ten Thousand Dollars (\$10,000) for each breach. The University shall be entitled to withhold the liquidated damages from any payments due Mr. Hamilton under this Agreement, provided, however, that the University shall not withhold more than Twenty Thousand Dollars (\$20,000) from any monthly payment due under this Agreement and shall not withhold more than Fifty Thousand Dollars (\$50,000) in total. The parties agree that no liquidated damages shall be due under this Section 19 after the date of the last payment due Mr. Hamilton under this Agreement. The parties agree that damages sustained by a breach of Section 18(a), 18(b), or 18(c) would be impractical or extremely difficult to determine, that such liquidated damages are a reasonable approximation of the harm caused by each breach, and that such liquidated damages are not intended to be, and shall not be construed as, a penalty.

20. Mr. Hamilton acknowledges and agrees that the University owes him no compensation, payment or benefits other than as set out in this Agreement.

21. All payments made under this Agreement shall be subject to withholding as required by law. The University shall report such income as required by law and University policy. Mr. Hamilton agrees to bear sole responsibility for any and all direct or indirect tax consequences of the payments made to him under this Agreement.

22. This Agreement constitutes the entire agreement between the parties. This Agreement may not be modified or canceled in any manner except in writing, signed by both parties. Mr. Hamilton acknowledges that the University has made no representations or promises to him, other than those in this Agreement. If any provision in this Agreement is found to be unenforceable, all other provisions shall remain fully enforceable. The covenants set forth in this Agreement shall be considered and construed as separate and independent covenants.

23. This Agreement shall be construed as a whole according to its fair meaning. It shall not be construed strictly for or against either party.

24. This Agreement may be modified or amended only by a writing signed by Mr. Hamilton and an authorized official of the University.

25. This Agreement shall be governed by the law of the State of Tennessee.

26. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

READ THIS ENTIRE AGREEMENT AND CAREFULLY CONSIDER ALL OF ITS PROVISIONS BEFORE SIGNING IT. THIS AGREEMENT INCLUDES A RELEASE OF KNOWN AND UNKNOWN CLAIMS.

IN WITNESS WHEREOF the parties have executed this Agreement on the dates indicated below.

THE UNIVERSITY OF TENNESSEE

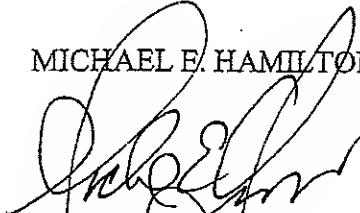
By: \_\_\_\_\_  
Jimmy G. Cheek, Chancellor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charles M. Peccolo, Jr.  
Interim Chief Financial Officer

\_\_\_\_\_  
Date

MICHAEL E. HAMILTON

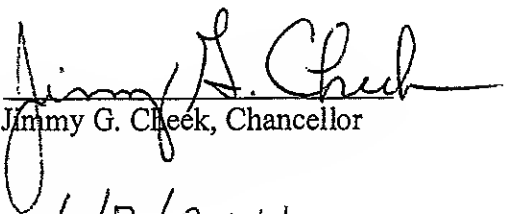
  
\_\_\_\_\_  
Michael E. Hamilton

6/7/11  
\_\_\_\_\_  
Date

IN WITNESS WHEREOF the parties have executed this Agreement on the dates indicated below.

THE UNIVERSITY OF TENNESSEE

MICHAEL E. HAMILTON


By: 

Jimmy G. Cheek, Chancellor

6/7/2011  
Date

Michael E. Hamilton

          
Date

  
Charles M. Peccolo, Jr.  
Interim Chief Financial Officer

6/7/2011  
Date